

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIE RETTBERG,

Plaintiff,

- against -

JOINT RECREATION COMMISSION OF THE
TOWN/VILLAGE OF GOSHEN, TOWN OF GOSHEN
and VILLAGE OF GOSHEN,

Defendant.
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ANSWER

Index No: 08 CV 5798 (SCR)

PLEASE TAKE NOTICE, Defendant, **TOWN OF GOSHEN**, through its attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE VERVENIOTIS, LLP, as and for their answer to plaintiff's complaint, upon information and belief, set forth as follows:

1. Denies each and every allegation contained in the paragraph(s) of the Verified Complaint marked and designated "**1**", "**4**", "**5**", "**9**" and "**16**" insofar as the allegations pertain or relate to this answering defendant and respectfully refers all questions of law to the Court and all questions of fact to the trier of fact.

2. Denies any knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in the paragraph(s) of the Verified Complaint designated "**2**", "**10**", "**11**", "**12**", "**15**" and "**19**".

3. Denies all the allegations contained in the paragraph(s) of the Verified Complaint designated **"3"** except admits that the Town of Goshen is a public entity organized and existing under the laws of the State of New York.

4. Denies any knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in the paragraph(s) of the Verified Complaint designated **"6" and "7"** and respectfully refers all questions of law to the Court and all questions of fact to the trier of fact.

5. Denies any knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in the paragraph(s) of the Verified Complaint designated **"8" and "18"** and begs leave to refer to same at the time of trial and respectfully refers all questions of law to the Court and all questions of fact to the trier of fact..

6. Denies each and every allegation contained in the paragraph(s) of the Verified Complaint marked and designated **"13", "14", "17", "20" and "21"** insofar as the allegations pertain or relate to this answering defendant.

7. Denies all the allegations contained in the paragraph(s) of the Verified Complaint designated **"22"**.

ANSWERING THE CAUSE OF ACTION

8. As to paragraph number "23", this answering defendant repeats, reiterates, and realleges each and every denial of the allegations contained in the paragraphs of the Verified Complaint designated "1" through "22" as if said denials were more fully and specifically set forth at length herein.

9. Denies all the allegations contained in the paragraph(s) of the Verified Complaint designated "24".

**AS AND FOR A FIRST SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**

10. Plaintiff is unable to establish a *prima facie* case of employment discrimination by demonstrating: 1) membership in a protected class; 2) satisfactory job performance; 3) termination from employment or other adverse employment action; and 4) that his adverse employment decision occurred under circumstances giving rise to an inference of discrimination based on membership in the protected group.

**AS AND FOR A SECOND SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**

11. Plaintiff is unable to come forward with credible evidence that the actions of this answering defendant was motivated by animus or ill-will.

**AS AND FOR A THIRD SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**

12. An employer is permitted to establish performance standards which are not developed to discriminate on the basis of alleged pregnancy discrimination.

**AS AND FOR A FOURTH SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**

13. Discrimination is not demonstrated herein predicated upon an assessment of inadequate performance.

**AS AND FOR A FIFTH SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**

14. Plaintiff's employer had a legitimate non-pretextual and non-discriminatory reason for terminating plaintiff's employment.

**AS AND FOR A SIXTH SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**

15. Plaintiff is unable to prove that her employer's articulated reason for the discharge was a pretext for pregnancy related discrimination.

**AS AND FOR A SEVENTH SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**

16. Plaintiff has failed to exhaust appropriate administrative remedies.

**AS AND FOR A EIGHTH SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE**


17. Plaintiff's alleged economic damages are entirely speculative.

WHEREFORE, Defendant, TOWN OF GOSHEN demands judgment dismissing the complaint together with the attorneys' fees, costs and disbursements of this action.

DATED: Elmsford, New York
August 13, 2008

Yours, etc.

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